

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

THE GENERAL HOSPITAL
CORPORATION and DANA-FARBER
CANCER INSTITUTE, INC.,

Plaintiffs,

v.

ESOTERIX GENETIC LABORATORIES,
LLC and LABORATORY CORPORATION
OF AMERICA HOLDINGS,

Defendants.

C.A. No.: 1:18-CV-11360-IT

NOTICE OF CONDITIONAL CROSS-APPEAL

In accordance with Federal Rule of Appellate Procedure 3, the plaintiffs, The General Hospital Corporation and Dana-Farber Cancer Institute, Inc. (the “Plaintiffs”), hereby appeal to the United States Court of Appeals for the First Circuit (“First Circuit”) from the following:

- the Memorandum and Order of the United States District Court for the District of Massachusetts dated September 4, 2019, to the extent it allowed the motion to dismiss of the Defendants Esoterix Genetic Laboratories LLC and Laboratory Corporation of America Holdings (“Defendants”) as to Plaintiffs’ reformation of contract claim (Count V) and dismissed the claim as moot in light of the District Court’s allowance of Plaintiffs’ Motion for Partial Summary Judgment on their breach of contract claim (Count I) and determination that the Settlement Agreement did not waive the payment of the disputed royalties; and
- the Judgment entered by the United States District Court for the District of Massachusetts (Dkt. No. 154) on October 26, 2020, which entered Judgment for

Defendants and against Plaintiffs on Count V (Reformation of Contract – Mistake).

The First Circuit need not address Plaintiffs' cross-appeal if it affirms the Judgment of the District Court granting Plaintiffs' summary judgment on their breach of contract claim (Count I).

THE GENERAL HOSPITAL
CORPORATION AND DANA-FARBER
CANCER INSTITUTE, INC.

By their attorneys,

/s/ Carolyn M. Crowley

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Dated: December 3, 2020

CERTIFICATE OF SERVICE

I, Carolyn M. Crowley, as counsel for plaintiffs The General Hospital Corporation and Dana Farber Cancer Institute, Inc. in the above-captioned matter, hereby certify that on December 3, 2020, I filed this Notice of Appeal on the Court's CM/ECF system, which will electronically serve all counsel of record in this case.

/s/ Carolyn M. Crowley

Carolyn M. Crowley